

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06-CR-00194-RJC

USA

v.

DEVON RAYMUS STURDIVANT

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence under § 404 of the First Step Act of 2018, (Doc. No. 95), the government's response, (Doc. No. 97), and the defendant's reply, (Doc. No. 98).


On October 3, 2006, the defendant pled guilty to an attempt to possess with intent to distribute at least 500 grams of cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 846 (Count One), and possessing a firearm in furtherance of that drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1) (Count Two). (Doc. No. 9: Indictment at 1; Doc. No. 21: Plea Agreement at 1-2; Doc. No. 52: Presentence Report at 5; Doc. No. 32: Judgment at 1).

As the government rightly argues, (Doc. No. 97: Response at 2-3), a violation of § 841(b)(1)(B) relating only to powder cocaine is not a "covered offense" under the First Step Act. Pub. L. 115-135, § 404(a), because the penalty was not amended by the Fair Sentencing Act of 2010, Pub. L. 111-220, § 2 (2010). United States v. Gravatt, 953 F.3d 258, 264 (4th Cir. 2020). Therefore, he is not eligible for a sentence reduction under § 404 of the First Step Act.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 95), is **DISMISSED**.

The Clerk is directed to certify copies of this Order to the defendant and the United States Attorney.

Signed: September 15, 2023


Robert J. Conrad, Jr.
United States District Judge

